

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's Own Motion
Into the Operations and Practices of Pacific Gas
and Electric Company; Notice of Opportunity for
Hearing; and Order to Show Cause Why the
Commission Should Not Impose Fines and
Sanctions for the December 20, 2003 PG&E
Mission Substation Fire and Electric Outage
Pursuant to Public Utilities Code Section 451.

Investigation 05-03-011
(Filed March 17, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING GRANTING
IN PART AND DENYING IN PART PETITION TO INTERVENE
OF THE CITY AND COUNTY OF SAN FRANCISCO**

By motion filed on April 22, 2005, the City and County of San Francisco (City) asks the Commission to allow it to intervene in this investigation into the fire at the Pacific Gas and Electric (PG&E) Mission substation and related issues. PG&E, by response filed May 6, 2005, does not oppose the intervention but opposes any expansion of the scope of this proceeding. City's reply, filed May 10, 2005, clarifies City's objectives.

City points to the previous motion it filed in PG&E's pending general rate case¹ and states that its interest in this investigation stems from:

¹ *Motion Requesting Procedures to Ensure Implementation of consumer Protection and Safety Division Recommendations and to Determine Appropriate Fines and Penalties*, filed December 20, 2004 in Application (A.) 02-11-017 et al.

The adverse consequences of these fires and electric outages to the people of San Francisco; the firefighters who are dispatched to put out the fires; the City's loss of power on a major shopping day (December 21, 2003) and the day before Easter when many residents and visitors were in the downtown center of the city (March 26, 2005) the loss to sales tax revenue to the City; and the significant inconvenience to the public and the risks to public health and safety posed by these outages. (City motion, p. 2.)

City states that it was unaware of the prehearing conference held on April 11, 2005 but that it has read the scoping memo and intends to participate on both issue groups identified in the scoping memo:

- whether PG&E should be found in violation of Pub. Util. Code § 451 and assessed a penalty for allowing an unsafe condition to exist at the Mission Substation, which led to an electrical fire and catastrophic power outage on December 20, 2003; and
- whether the Commission should order changes to PG&E's maintenance, operations, or construction standards to improve and ensure system-wide safety and reliability.

City also states that it wishes "to raise the related issue of the refunds or reparations to which ratepayers are entitled in connection with the service outages" but does not intend to lengthen the schedule or change any of the schedule dates already set. (*Ibid.*) City wishes to distribute prepared testimony concurrently with staff in the Consumer Protection and Safety Division (CPSD) on June 3, July 15 and August 31 and to participate in any settlement negotiations.

City's motion, together with its prior motion in the general rate case, establish its valid interest in this proceeding. City's request to intervene should be granted. However, City has not shown how customer reparations fall within the existing scope of this narrowly-drawn OII, which focuses on whether

penalties should issue and whether design or operational changes should be required.² City states that it is engaged in informal discussions with PG&E about reparations and that it recognizes that damage awards are within the exclusive purview of the Courts. City's request to expand the scope of this investigation is denied. If City wishes to pursue a complaint for reparations at the Commission, it may do so consistent with the Public Utilities Code's jurisdictional requirements and with all other applicable statutes.

Rule 57 of the Commission's Rules of Practice and Procedure provides that in investigation such as this one, Commission staff shall open and close. It also provides: "Intervenors shall follow the parties in whose behalf the intervention is made." City's interests, on behalf of the people of San Francisco, align with those of CPSD; thus, City's prepared testimony should follow or be distributed concurrently with CPSD's.

Under the current schedule, on June 3 CPSD will distribute reply testimony on the two reports that have examined the 2003 fire and its causes. These reports have been marked for identification as Ex. 1 (CPSD's report) and Ex. 100 (PG&E's report). There is no need for City to file reply testimony on Ex. 1 as it has not offered any initial testimony on the causes of the fire and indicates that having read CPSD's report, it has no need to do so. However, if City chooses to take a position on Ex. 100, it may distribute testimony tailored to that subject on June 3. If City chooses to take a position on Ex. 101, PG&E's report on the conditions at other PG&E substations, or on the penalty recommendations stemming from Ex. 1, it may do so by distributing prepared testimony

² Moreover, these issues are precisely the ones City's general rate case motion asks the Commission to investigate.

concurrently with CPSD on July 15 (initial) and August 31 (reply). The following block of exhibit numbers will be reserved for City: 200-299.

Article 13.5 (Rule 51 through 51.10) of the Commission's Rules governs stipulations and settlements between and among parties to Commission proceedings. As a party, City may participate in settlement discussions as provided by these Rules.

IT IS RULED that:

1. The April 10, 2005 motion of the City and County of San Francisco (City) is granted in part and denied in part as follows:

- (a) City shall be granted party status and shall be listed on the service list as an "appearance"; but
- (b) City's request to expand the scope of this proceeding is denied.

2. City may distribute prepared testimony on June 3, July 15, and August 31, 2005 consistent with the discussion in the body of this ruling.

3. The following block of exhibits is reserved for City: 200-299.

4. City's right to participate in settlement discussions is governed by Article 13.5 of the Commission's Rules of Practice and Procedure.

Dated May 17, 2005, at San Francisco, California.

/s/ JEAN VIETH

Jean Vieth
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have this day served the attached Administrative Law Judge's Ruling Granting In Part and Denying In Part Petition to Intervene of the City and County of San Francisco on all parties of record in this proceeding or their attorneys of record by U.S.

Dated May 17, 2005, at San Francisco, California.

/s/ ELIZABETH LEWIS
Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.